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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,372	04/12/2004	George J. Hobbs	5724-001	2828
25184	7590	10/11/2005	EXAMINER	
WILLIAM J. MASON MACCORD MASON PLLC POST OFFICE BOX 1489 WRIGHTSVILLE BEACH, NC 28480			SAFAVI, MICHAEL	
			ART UNIT	PAPER NUMBER
			3673	

DATE MAILED: 10/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/822,372

Applicant(s)

HOBBS, GEORGE J.

Examiner

M. Safavi

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>9/17/04</u> . | 6) <input type="checkbox"/> Other: ____. |

Handwritten signature or mark.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hargett in view of either Stolz or Harbeke.

Hargett discloses, Figs. 2-4, a polymer form 10 comprising a plurality of spaced, vertically aligned conduits 16 having upper ends with spacers 12, 14 connecting the conduits, the ends of the form 10 constituting the sidewalls with Fig. 4 showing a rectangular shape. Hargett does not specifically set forth removable caps covering the conduit upper ends.

However, each of Stolz and Harbeke teach utilization of caps covering conduits during concrete pour forming so as to prevent concrete from entering the conduit during the pour. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the Hargett form with caps so as to inhibit concrete from entering the conduit as taught by either of Stolz and Harbeke.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hargett in view of either Stolz or Harbeke as applied to claims 1-4 and 6 above, and further in view of Rothberg.

To have formed the modified Hargett form of a thermoplastic polymer would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by Rothberg at col. 4, line 63.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hargett in view of either Stolz or Harbeke as applied to claims 1-4 and 6 above, and further in view of any of Dirksing, Hasty, Narva, Goth and Szabo.

Hargett as modified by either of Stolz and Harbeke fails to disclose pull-tabs to assist in removal of the caps from the conduits. However, each of Hasty, Narva, Goth and Szabo disclose, as conventional, pull-tabs, 1c of Fig. 1 of Dirksing, 12/14/16 of Hasty, 24 of Narva, 11/21 of Goth, and col. 1, line 46 of Szabo. Therefore, to have formed the modified Hargett form with caps possessing pull tabs, thus allowing easy removal thereof, would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by any of Dirksing, Hasty, Narva, Goth and Szabo.

Claims 7-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hargett in view of Reyneveld.

Hargett discloses, Figs. 2-4, a polymer form 10 comprising a plurality of spaced, vertically aligned conduits 16 having upper ends with spacers 12, 14 connecting the conduits, the ends of the form 10 constituting the sidewalls with Fig. 4 showing a rectangular shape. Hargett does not specifically set forth concrete filling or within the form.

However, Reyneveld teaches, Fig. 1, application and utilization of an outer perimeter form 10 serving to contain concrete 12. Therefore to have utilized an outer perimeter form serving to contain the Hargett concrete particularly during placement thereof, would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by Reyneveld.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hargett in view of Reyneveld as applied to claims 7-14 above, and further in view of Rothberg.

To have formed the modified Hargett form of a thermoplastic polymer would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by Rothberg at col. 4, line 63.

Claims 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hargett in view of Reyneveld as applied to claims 7-14 above, and further in view of either of Stolz or Harbeke.

Hargett as modified by Reyneveld does not specifically set forth removable caps covering the conduit upper ends.

However, each of Stolz and Harbeke teach utilization of caps covering conduits during concrete pour forming so as to prevent concrete from entering the conduit during the pour. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the modified Hargett form and method with caps so as to inhibit concrete from entering the conduit as taught by either of Stolz and Harbeke.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hargett in view of Reyneveld and either of Stolz or Harbeke as applied to claims 15-20 above, and further in view of Rothberg.

To have formed the modified Hargett form of a thermoplastic polymer would have been obvious to one having ordinary skill in the art at the time the invention was made as taught by Rothberg at col. 4, line 63.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (571) 272-7046. The examiner can normally be reached on Mon.-Thur., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (571) 272-7049. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MICHAEL SAFAVI
PRIMARY EXAMINER
ART UNIT 3673

M. Safavi
September 25, 2005